

# **Exhibit 78**

CONFIDENTIAL - ADAM WERNER, Ph.D.  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: :  
: Master File No.  
Global Brokerage, Inc. : 1:17-cv-00916-RA  
F/k/a FXCM, Inc. :  
Securities Litigation :  
----- :

REMOTE VIDEO DEPOSITION OF:

ADAM WERNER, Ph.D.  
FRIDAY, JUNE 4, 2021

REPORTED BY:  
SILVIA P. WAGE, CCR, CRR, RPR  
JOB NO. 4577228

<p style="text-align: right;">Page 485</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 attributable to the withdraw from its US business</p> <p>3 as opposed to attributable to the undisclosed</p> <p>4 interest in Effex?</p> <p>5 MR. BAKER: Objection.</p> <p>6 THE WITNESS: I'm sorry. Go ahead,</p> <p>7 Josh.</p> <p>8 MR. BAKER: Objection to the form.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: Sorry.</p> <p>11 A. So you're using that word "possible"</p> <p>12 again. And I don't know. I mean, I don't know</p> <p>13 what absurd example you want me to come up with.</p> <p>14 But when you ask the word, "is it</p> <p>15 possible," short of something being a hundred</p> <p>16 percent, something happening with a hundred</p> <p>17 percent certainty, it's possible.</p> <p>18 Q. And is it also possible that the</p> <p>19 price reaction was mostly attributable to FXCM's</p> <p>20 withdraw from the US market, as opposed to the</p> <p>21 undisclosed interest with Effex?</p> <p>22 MR. BAKER: Same objection.</p> <p>23 A. Again, it's -- again, it's a poorly</p> <p>24 worded question. "Is it possible?" I mean, I</p> <p>25 referred back to my previous discussions about</p>	<p style="text-align: right;">Page 487</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 implications for FXCM of operating as a dealing</p> <p>3 desk versus a no dealing desk in connection with</p> <p>4 your work in the loss causation and damages</p> <p>5 report?</p> <p>6 A. I valued FXCM -- well, I don't</p> <p>7 believe so. I mean, there is an implication that</p> <p>8 I did do that because we're talking about the but</p> <p>9 for world and the actual world. And so, to the</p> <p>10 extent that there's a corrective disclosure at</p> <p>11 the end of the class period, it's implied that I</p> <p>12 looked at that.</p> <p>13 Q. But you did no explicit analysis in</p> <p>14 connection with that?</p> <p>15 A. "Explicit"? I mean, again, to the</p> <p>16 extent that I looked at the price decline at the</p> <p>17 end of the class period, I don't know if that is</p> <p>18 -- falls under your rubric of "explicit."</p> <p>19 Q. Does your loss causation and damages</p> <p>20 analysis include an analysis of Plaintiffs'</p> <p>21 allegation relating to any GAAP violations?</p> <p>22 MR. BAKER: Objection.</p> <p>23 A. So --</p> <p>24 THE WITNESS: Oh, sorry. Go ahead,</p> <p>25 Josh.</p>
<p style="text-align: right;">Page 486</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 the possibility -- about the theory of</p> <p>3 possibility.</p> <p>4 You know, "is it possible?" I --</p> <p>5 again, anything's possible, unless there's a</p> <p>6 hundred percent chance that it's impossible.</p> <p>7 Q. And, in your analysis, you did not</p> <p>8 attempt to quantify the price reaction for each</p> <p>9 of those pieces of information separately,</p> <p>10 correct?</p> <p>11 MR. BAKER: Objection, asked and</p> <p>12 answered.</p> <p>13 THE WITNESS: I'm glad you said that</p> <p>14 because I was about to say "asked and answered."</p> <p>15 A. Or instead of "asked and answered,"</p> <p>16 since I'm not the lawyer here, I refer to my</p> <p>17 previous answer to that question, which I think</p> <p>18 has been asked a couple of times now.</p> <p>19 Q. In connection with your work for the</p> <p>20 loss causation and damages report, did you</p> <p>21 analyze whether an agency or no dealing desk</p> <p>22 model is preferable to a principal or dealing</p> <p>23 desk model from a valuation standpoint for FXCM?</p> <p>24 A. For FXCM? I don't believe so.</p> <p>25 Q. Did you analyze the value</p>	<p style="text-align: right;">Page 488</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 MR. BAKER: Objection to form.</p> <p>3 That's fine.</p> <p>4 A. So, as I've stated previously, I've</p> <p>5 assumed that Plaintiffs' allegations are correct.</p> <p>6 I have not seen anything to suggest that they are</p> <p>7 incorrect. I mean, based on my understanding of</p> <p>8 accounting is what they did a GAAP violation.</p> <p>9 I'm not sure I've been preferred here as -- or</p> <p>10 proffered here as an expert on accounting.</p> <p>11 I believe and don't quote me on this</p> <p>12 and I, certainly, wouldn't want to charge someone</p> <p>13 for this opinion, but it was a GAAP -- what they</p> <p>14 did was a GAAP violation, but I am not sure as I</p> <p>15 sit here today.</p> <p>16 Q. You're aware that FXCM did not</p> <p>17 restate its financial statements following the</p> <p>18 CFTC and NFA settlements; is that right?</p> <p>19 A. At what point in time?</p> <p>20 Q. After the CFTC and NFA settlements.</p> <p>21 A. So immediately after?</p> <p>22 Q. At anytime after.</p> <p>23 A. Well, I don't know. I haven't seen</p> <p>24 their private financials. I don't remember what</p> <p>25 happened in the context of their bankruptcy. But</p>

<p style="text-align: right;">Page 489</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 if you want to stipulate to that, I'll -- I have</p> <p>3 no reason to think you're wrong.</p> <p>4 Q. Do you offer any opinion in your loss</p> <p>5 causation and damages report about a purported</p> <p>6 corrective disclosure with regard to GAAP and</p> <p>7 FXCM's accounting?</p> <p>8 A. My report speaks for itself as to</p> <p>9 what I've considered. And so, you know, I refer</p> <p>10 to Paragraph 7 of my report as to what I looked</p> <p>11 at in forming this -- that's what I've been asked</p> <p>12 to do.</p> <p>13 Q. Are you aware that the CFTC and NFA</p> <p>14 settlement do not address FXCM's compliance with</p> <p>15 GAAP?</p> <p>16 MR. BAKER: Objection, assumes facts</p> <p>17 not in the record.</p> <p>18 A. I don't know one way or the other as</p> <p>19 I sit here.</p> <p>20 Q. I think this would be a good time to</p> <p>21 take another short break. Maybe give us ten</p> <p>22 minutes so I can regroup and see how much further</p> <p>23 we have.</p> <p>24 MR. ISAJIW: So let's go off the</p> <p>25 record.</p>	<p style="text-align: right;">Page 491</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 if you use DCF analysis. So it's implied. But</p> <p>3 if you're asking if I separately did a DCF cash</p> <p>4 flow analysis for this, I did not.</p> <p>5 Q. Okay. And did you apply a return</p> <p>6 retribution analysis?</p> <p>7 A. I'm not sure I've ever heard of that,</p> <p>8 "a return retribution," like I'm getting revenge</p> <p>9 on somebody?</p> <p>10 Q. I'm sorry, a return attribution.</p> <p>11 A. Oh, okay.</p> <p>12 Q. I apologize.</p> <p>13 A. It's been a long day. Sorry.</p> <p>14 A "return attribution analysis"? So</p> <p>15 do you mean attributing a return -- different</p> <p>16 parts of a return to different factors?</p> <p>17 Q. So I, actually, am looking to get</p> <p>18 that information from you. What I -- let me back</p> <p>19 up and maybe this will give it more context.</p> <p>20 A. Okay.</p> <p>21 Q. In your market efficiency reports,</p> <p>22 you did not perform a loss causation and damages</p> <p>23 analysis, correct?</p> <p>24 A. That is correct, yes.</p> <p>25 Q. But if you recall, there were</p>
<p style="text-align: right;">Page 490</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 2:51 p.m. We're going off the record.</p> <p>4 (Lunch recess taken 2:51 to</p> <p>5 p.m.)</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 3:55 p.m. and we're back on the record.</p> <p>8 Q. Dr. Werner, just a few more questions</p> <p>9 hopefully to finish this up.</p> <p>10 In connection with your loss</p> <p>11 causation and damages analysis, did you use</p> <p>12 valuation multiple models?</p> <p>13 A. Did I use "valuation multiple</p> <p>14 models"? Hmm. I think I know what you're</p> <p>15 talking about. Can you give me an example?</p> <p>16 Q. I can't. But let's put a pin on that</p> <p>17 and I'll ask another question and come back to</p> <p>18 it.</p> <p>19 A. Okay.</p> <p>20 Q. Did you use a discounted cash flow</p> <p>21 model?</p> <p>22 A. Well, I mean -- okay, so that's a</p> <p>23 difficult question to answer only to the extent</p> <p>24 that, you know, the change in the stock price</p> <p>25 will be -- should reflect the same answer you get</p>	<p style="text-align: right;">Page 492</p> <p>1 CONFIDENTIAL - ADAM WERNER, Ph.D.</p> <p>2 discussions about how you would potentially</p> <p>3 conduct such analysis in those reports; is that</p> <p>4 correct?</p> <p>5 A. I do not recall. It's possible. I</p> <p>6 don't recall those conversations, as I sit here</p> <p>7 today.</p> <p>8 Q. Fair enough.</p> <p>9 Can you take a look at your rebuttal</p> <p>10 report, which is Exhibit 9.</p> <p>11 A. Exhibit 3... Hold on. Sorry.</p> <p>12 Rebuttal report, okay, I've got it.</p> <p>13 Q. And you recall that -- and I'm not</p> <p>14 looking for specifics here. Just at a very</p> <p>15 general level, Dr. Hendershott -- Professor</p> <p>16 Hendershott submitted a report where he had</p> <p>17 criticisms of your potential loss causation</p> <p>18 analysis; is that correct?</p> <p>19 A. Well, so, to the extent that I didn't</p> <p>20 perform a loss causation analysis for that</p> <p>21 report, I don't -- I'm not sure I would</p> <p>22 characterize it that way or I'm not sure that</p> <p>23 that's an accurate characterization of what Dr.</p> <p>24 Hendershott did.</p> <p>25 Q. Fair enough.</p>